

W.P.No.27198 of 2005

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Per R. Subhash Reddy, J

This is a petition for quashing orders dated 4.8.1997 and 5.8.2004 passed by District Consumer Disputes Redressal Forum, Nellore (for short "District Forum") and Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short 'State Commission') respectively.

The respondents herein were the complainants in C.D.No.14 of 1997 on the file of the District Forum. In the said proceedings, the respondents/complainants prayed that the non-applicant (petitioner herein) be directed to refund an amount of Rs.9,200/- to each of them, with interest at the rate of 24% per annum from 16.12.1996 onwards. It was their case that the petitioner had collected an amount of Rs.6,500/- from each of them at the rate of Rs.200/- per month from 5.5.1989 to 15.12.1990 by giving assurance for allotment of house sites to them, and, further collected Rs.3,600/- towards registration charges, but, he failed to keep up his promise regarding allotment of house sites and as such he was liable to refund the amount with interest.

The petitioner contested the complaint of the respondents. While admitting the transaction involving deposit of different amounts by the complainants, the petitioner pleaded that the complaint was liable to be dismissed because his partner had not been impleaded as party.

District Forum, Nellore, vide its order 4.8.1997 allowed the complaint and directed the petitioner to pay a sum of Rs.9,200/- to each of the complainants with interest at the rate of 18% per annum from 14.9.1991 and costs of Rs.1,000/-.

On account of non-compliance of the order passed by the District Forum, the respondents filed Execution Petition No.3 of 2001. The petitioner objected to the territorial jurisdiction of the District Forum to entertain the execution petition by alleging that entire cause of action had accrued in Ongole. The objection raised by the petitioner to the maintainability of the execution petition was negated by the

District Forum. The appellant challenged the order of the District Forum by filing revision before the State Commission, which negated his objection mainly on the ground that order dated 4.8.1997 passed by the District Forum had become final and it is no longer open to the petitioner to raise objection regarding territorial jurisdiction of the District Forum.

Shri P. Gangirami Reddy, learned advocate for the petitioner argued that the District Forum as well as the State Commission committed a jurisdictional error by refusing to entertain the objection taken by his client to the very maintainability of the complaint and execution petition filed by the respondents. Learned counsel emphasized that no part of cause of action arose in Nellore District and, therefore, District Forum, Nellore did not have the jurisdiction to entertain the complaint made by the respondents. He pointed out that the office of the petitioner was situated in Ongole, and house sites, which were assured to be given to the subscribers were also situated in Ongole and, therefore, only the District Forum, Prakasham had the jurisdiction to entertain the complaint.

In our opinion, there is no merit in the arguments of the learned counsel and the writ petition is liable to be dismissed summarily. Admittedly, the petitioner did not challenge order dated 4.8.1997 passed by the District Forum by filing appeal or by availing other legal remedy. Therefore, in the garb of challenging order dated 5.8.2004 passed by the State Commission in the revision filed against the decision of the District Forum rejecting the petitioner's objection, we cannot allow him to challenge order dated 4.8.1997. In this context, it is important to bear in mind that the petitioner suffered adverse order almost eight years before filing of this petition. The filing of execution petition necessitated because he did not comply with the direction contained in order dated 4.8.1997 and, in our considered view, the District Forum and the State Commission rightly declined to entertain his objection to the former's jurisdiction to decide the execution petition because the original order dated 4.8.1997 had become final.

There are two other reasons for our disinclination to entertain the writ petition. Firstly, it is belated by more than one year. Secondly, neither the District Forum nor the State Commission have been impleaded as party respondents and, in their absence, a writ of certiorari cannot be issued to nullify the impugned orders.

For the reasons mentioned above, the writ petition is dismissed.

R. SUBHASH REDDY, J

21st December, 2005

G.S. SINGHVI, CJ

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